

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROYAL PARK INVESTMENTS SA/NV,
Plaintiff,
v.
HSBC BANK USA, N.A., Defendant.

No. 1:14-cv-08175-LGS-SN

BLACKROCK BALANCED CAPITAL
PORTFOLIO (FI), *et al.*,
Plaintiffs,
v.
HSBC BANK USA, N.A., Defendant.

No. 1:14-cv-09366-LGS-SN

PHOENIX LIGHT SF LIMITED, *et al.*,
Plaintiffs,
v.
HSBC BANK USA, N.A., Defendant.

No. 1:14-cv-10101-LGS-SN

NATIONAL CREDIT UNION
ADMINISTRATION BOARD, *et al.*,
Plaintiffs,
v.
HSBC BANK USA, N.A., Defendant.

No. 1:15-cv-02144-LGS-SN

COMMERZBANK AG,
Plaintiff,
v.
HSBC BANK USA, N.A., Defendant.

No. 1:15-cv-10032-LGS-SN

TRIAXX PRIME CDO 2006-1, *et al.*,
Plaintiffs,
v.
HSBC BANK USA, N.A., Defendant.

No. 1:15-cv-10096-LGS-SN

**NOTICE OF COORDINATED PLAINTIFFS' RULE 72 OBJECTIONS
AND MOTION TO VACATE THE MAGISTRATE JUDGE'S
OPINION AND ORDER CONCERNING SAMPLING**

PLEASE TAKE NOTICE that Plaintiffs in the six above-captioned coordinated actions, namely, Royal Park Investments SA/NV, Blackrock Balanced Capital Portfolio (FI), Phoenix Light SF Limited, National Credit Union Administration Board, as liquidating agent, Commerzbank AG, and Triaxx Prime CDO 2006-1, collectively “Coordinated Plaintiffs,” relying upon (i) the Memorandum of Law in Support of Coordinated Plaintiffs’ Rule 72 Objections and Motion to Vacate the Magistrate Judge’s Opinion and Order Concerning Sampling; (ii) the Declaration of Scott K. Attaway and exhibit thereto; and (iii) all prior proceedings and matters of record in these cases, will move this Court before the Honorable Lorna G. Schofield, United States District Judge, Southern District of New York, at the United States Courthouse, 500 Pearl Street, New York, NY 10007, on a date to be determined by the Court, for an order pursuant to Federal Rule of Civil Procedure 72: (i) vacating the February 24, 2017 bottom-line Order and the March 10, 2017 Opinion and Order issued by the Honorable Sarah Netburn, United States Magistrate Judge, precluding plaintiffs from re-underwriting a sampling of loans for the purpose of proving liability or damages beyond the loans in the sample, as entered in each of these six actions,¹ (ii) holding that “discovery” as used in the operative agreements means constructive knowledge as set forth in Plaintiffs’ Memorandum; and (iii) authorizing plaintiffs’ proposed use of sampling to support their cases at trial.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Court’s March 16, 2017 Order, Defendant shall file any opposition brief by April 28, 2017, and Plaintiffs shall file any reply brief by May 8, 2017.

¹ *Royal Park*, ECF Nos. 279 & 292, Case No. 1:14-cv-08175-LGS-SN; *Blackrock*, ECF Nos. 304 & 320, Case No. 1:14-cv-09366-LGS-SN; *Phoenix Light*, ECF Nos. 212 & 225, Case No. 1:14-cv-10101-LGS-SN; *NCUA*, ECF Nos. 212 & 225, Case No. 1:15-cv-02144-LGS-SN; *Commerzbank*, ECF Nos. 167 & 180, Case No. 1:15-cv-10032-LGS-SN; *Triaxx Prime*, ECF Nos. 125 & 135, Case No. 1:15-cv-10096-LGS-SN.

Oral argument is requested. Plaintiffs will file a letter request pursuant to the Court's Individual Rule III.B.6 in due course.

Dated: April 7, 2017

BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP

/s/ Timothy A. DeLange
BLAIR A. NICHOLAS
TIMOTHY A. DeLANGE
BENJAMIN GALDSTON
RICHARD D. GLUCK
BRETT M. MIDDLETON
NIKI L. MENDOZA
LUCAS E. GILMORE
ROBERT S. TRISOTTO
12481 High Bluff Drive, Suite 300
San Diego, CA 92130
Tel: (858) 793-0070
Fax: (858) 793-0323

*Counsel for Plaintiffs BlackRock Balanced
Capital Portfolio (Fl), et al.*

WOLLMUTH MAHER & DEUTSCH LLP

/s/ Steven S. Fitzgerald
DAVID H. WOLLMUTH
STEVEN S. FITZGERALD
RANDALL R. RAINER
NIRAJ J. PAREKH
500 Fifth Avenue
New York, NY 10110
Tel: (212) 382-3300
Fax: (212) 382-0050

*Counsel for Plaintiffs Phoenix Light SF
Limited, et al.*

Respectfully submitted,

ROBBINS GELLER RUDMAN
& DOWD LLP

/s/ Christopher M. Wood
CHRISTOPHER M. WOOD
414 Union Street, Suite 900
Nashville, TN 37219
Tel: (615) 244-2203
Fax: (615) 252-3798

*Counsel for Plaintiff Royal Park Investments
SA/NV*

WOLLMUTH MAHER & DEUTSCH LLP

/s/ Ryan A. Kane
DAVID H. WOLLMUTH
RYAN A. KANE
NIRAJ J. PAREKH
500 Fifth Avenue
New York, NY 10110
Tel: (212) 382-3300
Fax: (212) 382-0050

Counsel for Plaintiff Commerzbank AG

KOREIN TILLERY LLC

GEORGE A. ZELCS
JOHN A. LIBRA
MATTHEW C. DAVIES
MAX C. GIBBONS
205 North Michigan Plaza, Suite 1950
Chicago, IL 60601
Tel: (312) 641-9750
Fax: (312) 641-9760
-and-
STEPHEN M. TILLERY
505 North Seventh Street, Suite 3600
St. Louis, MO 63101-1625
Tel: (314) 241-4844
Fax: (314) 241-3525
-and-

KELLOGG, HANSEN, TODD, FIGEL &
FREDERICK, P.L.L.C.

/s/ Scott K. Attaway

DAVID C. FREDERICK
SCOTT K. ATTAWAY
MATTHEW M. DUFFY
FREDERICK GASTON HALL
KELLOGG, HANSEN, TODD,
FIGEL & FREDERICK, P.L.L.C.
Sumner Square
1615 M Street, N.W.
Suite 400
Washington, DC 20036
Tel: (202) 326-7900
Fax: (202) 326-7999

*Counsel for Plaintiff NCUA Board, as
Liquidating Agent*

Pursuant to this Court's ECF Rule 8.5(b),
counsel for NCUA represents that counsel
for these Coordinated Plaintiffs have
consented to the placement of their
electronic signatures on this document.

MILLER & WRUBEL P.C.

/s/ John G. Moon
JOHN G. MOON
CHARLES R. JACOB III
KERRIN T. KLEIN
570 Lexington Avenue
New York, New York 10022
Tel: (212) 336-3500
Fax: (212) 336-3555

Counsel for the Triaxx Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2017, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send a Notice of Electronic Filing upon all counsel of record.

/s/ Scott K. Attaway _____

Scott K. Attaway